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September 30, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, DC 20554

Attn: Wireline Competition Bureau

**Re: North Carolina RSA 3 Cellular Telephone Company
d/b/a Carolina West Wireless
Petition for Designation as an Eligible Telecommunications
Carrier in North Carolina
CC Docket No. 96-45**

Dear Madam Secretary:

North Carolina RSA 3 Cellular Telephone Company d/b/a Carolina West Wireless (“Carolina West”, the “Company”) hereby amends its above-referenced petition for ETC status in the state of North Carolina¹ to provide additional information requested by the Commission, through its Wireline Competition Bureau (“WCB”) and consistent with the Commission’s *Virginia Cellular* and *Highland Cellular* decisions.² Specifically, while Carolina West’s Petition stated that the Company would undertake the same commitments that were made by Virginia Cellular and adopted as conditions of its designation by the FCC, WCB staff has requested a discussion of what those commitments entail. In addition, staff has requested that the Company

¹ North Carolina RSA 3 Cellular Telephone Company d/b/a Carolina West Wireless, Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina, CC Docket No. 96-45 (filed June 8, 2004)(“Petition”). *See Parties are Invited to Comment on Carolina West Wireless’ Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina*, Public Notice, DA 04-2067 (rel. Aug. 3, 2004) (“Public Notice”). An amendment to the Petition was filed on June 16, 2004 (“June 16 Amendment”).

² *Virginia Cellular, LLC*, 19 FCC Rcd 1563 (2004), *recon. pending* (“*Virginia Cellular*”); *Highland Cellular, Inc.*, 19 FCC Rcd 6422 (2004), *recon. pending* (“*Highland Cellular*”).

address the issue of rural ILEC wire centers that are only partially covered by the proposed ETC service area described in the Petition.

As a preliminary matter, Carolina West fully commits to comply with all of the annual reporting requirements adopted in the *Report and Order* adopted earlier this year, including the filing of a five-year network improvement plan, network outage reports, and other newly required certifications and reports adopted therein. Carolina West understands that those new reporting conditions, upon OMB approval, will require all ETCs to file their first reports on October 1, 2006. Carolina West will comply with this and all other applicable rules and conditions adopted by the Commission.

A. Commitment to Undertake *Virginia Cellular* Commitments.

1. CTIA's Consumer Code for Wireless Services.

In its order designating Virginia Cellular, LLC ("Virginia Cellular") as an ETC, the Commission noted the petitioner's commitment to abide by the CTIA's Consumer Code for Wireless Services.³ If designated as an ETC, Carolina West commits to abide by the CTIA Consumer Code for Wireless Services, as it may be amended from time to time, for all of its operations in North Carolina.

2. Consumer Complaint Reporting.

In *Virginia Cellular*, the Commission required the petitioner to file with the Commission an annual report of its customer complaints. Carolina West hereby commits to do the same upon a grant of ETC status. Carolina West fully supports the Commission's efforts to collect service quality data that will permit it to develop meaningful service quality rules, to the extent necessary. If designated, Carolina West shall provide the FCC with an annual report providing the number of consumer complaints per 1,000 handsets in service. This, together with the aforementioned promise to abide by the CTIA Consumer Code, provides strong "evidence of [Carolina West's] commitment to high service quality."⁴

3. Service Provisioning Commitment.

As an ETC, Carolina West commits to provision service to all consumers reasonably requesting service within its ETC service area.⁵ The Commission requested Carolina West to describe specifically how it will respond to requests for service. Upon review of service

³ http://www.wow-com.com/pdf/The_Code.pdf

⁴ *Virginia Cellular*, *supra*, 19 FCC Rcd at 1576-77, para. 30.

⁵ See *Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission, Declaratory Ruling*, 15 FCC Rcd 15168 at 15174-75, para. 17 (2000) ("A new entrant, once designated as an ETC, is required, as the incumbent is required, to extend its network to serve new customers upon reasonable request").

provisioning commitments approved by the FCC and state commissions,⁶ Carolina West is pleased to make the following commitment to provision service to requesting customers:

In response to such requests for service at a residence or business, Carolina West will take the following steps:

1. If a request comes from a customer within its existing network, Carolina West will provide service immediately using its standard customer equipment.

2. If a request comes from a customer residing in any area where Carolina West does not provide service, Carolina West will take a series of steps to provide service.

* First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.

* Second, it will determine whether a roof-mounted antenna or other network equipment can be deployed at the premises to provide service.

* Third, it will determine whether adjustments at the nearest cell site can be made to provide service.

* Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.

* Fifth, it will explore the possibility of offering the resold service of carriers that have facilities available to that location.

* Sixth, Carolina West will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, Carolina West will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission will retain authority to resolve any customer complaints that Carolina West has refused to respond to a reasonable request for service.

Carolina West believes these service provisioning commitments will ensure that the company is responsive to consumers' needs while acting as a proper steward of available high-cost support funds.

⁶ See, e.g., *Virginia Cellular, supra*; Highland Cellular, Inc., Recommended Decision (West Virginia), Case No. 02-1453-T-PC (Sept. 15, 2003); Alaska DigiTel, LLC (Alaska), Docket U-02-39, Order No. 10 (August 28, 2003).

4. Construction Plans

In *Virginia Cellular*, the carrier provided plans for using high-cost funds to improve its facilities and reach out to areas that it does not currently serve.⁷ Consistent with *Virginia Cellular*, Carolina West committed in its Petition to “construct[] new facilities that would bring new and/or improved wireless services to the communities in or around the Westfield Community in Surry County, the Plum Tree Community in Avery County and Peoria Community in Watauga County in North Carolina.”⁸ Carolina West additionally committed to report on its progress in annual filings so that any changes in construction plans can be properly explained,⁹ also consistent with *Virginia Cellular*’s commitments.¹⁰

As noted above, Carolina West fully commits to develop a five-year network improvement plan and file it with the Commission on or before October 1, 2006, the date on which all ETCs are required to file their first report under the newly adopted rules.

5. Advertising Commitment.

Carolina West specifically commits to advertise the availability of its services throughout its ETC service area. The company will provide notices at local unemployment, social security and welfare offices so that consumers who may not have telephone service can learn about Carolina West’s service and that Lifeline and Link-up discounts are available. In addition, the company commits to locally publicize the construction of all new facilities in unserved or underserved areas so that consumers understand that the new facilities provide improved service in their area of interest. *See Virginia Cellular* at ¶ 25.

B. Removal of Partial Rural Wire Centers.

In *Highland Cellular*, the Commission concluded that “making designations for a portion of a rural telephone company’s wire center would be inconsistent with the public interest.” Specifically, the Commission concluded that “[a] rural telephone company’s wire center is an appropriate minimum geographic area for ETC designation because rural carrier wire centers typically correspond with county and/or town lines” and that “requiring a competitive ETC to serve entire communities will make it less likely that the competitor will relinquish its ETC designation at a later date.”¹¹

⁷ See *Virginia Cellular, supra*, 19 FCC Rcd at 1571, para. 16. Specifically, *Virginia Cellular* committed to use universal service support to construct 11 new cell sites in sparsely populated areas within its ETC service area. The FCC noted that the carrier’s build-out plan “may evolve over time” as a result of shifts in consumer demand. *Id.*

⁸ Petition at p. 12.

⁹ See *id.*

¹⁰ See *Virginia Cellular, supra*, 19 FCC Rcd at 1584, para. 46.

¹¹ *Highland Cellular, supra*, 19 FCC Rcd at 6438, para. 33.

Without conceding the reasons for the adoption of the rural telephone company wire center as the minimum geographic ETC designation area, Carolina West hereby amends its Petition so that there are no partial rural telephone company wire centers within its proposed ETC service area. As set forth in amended Exhibit D to the Petition, Carolina West indicated that the following rural telephone company wire centers are only partially within the proposed ETC service area: the Boonville, Elkin, and Pilot Mount wire centers of Central Telephone Company – North Carolina; and the Westfield wire center of the Surry Telephone Membership Corporation.¹²

The Boonville, Elkin and Pilot Mt. wire centers are covered by the proposed ETC service area except for a small portion; accordingly, Carolina West commits to serve customers in those areas with a combination of its own facilities and resale of another carrier's service.¹³ The Westfield wire center, on the other hand, is mostly outside of the proposed ETC service area; accordingly, Carolina West excludes that wire center from the proposed ETC service area in its entirety.

Carolina West's analysis of population density, which demonstrates that cream-skimming will not result from a grant of the Petition,¹⁴ is not materially affected by these changes. The removal of partial wire centers from Central Telephone Company – North Carolina's service area does not result in an increase of the average density of the portions within the proposed ETC service area which is 175, as compared to 189.1 persons per square mile for the entire study area. The portion of Wilkes Telephone Membership Corporation's study area found within the proposed ETC service area, is 76.9 persons per square mile as a result of its exclusion, only slightly higher than the study area average of 75.1 persons per square mile.

¹² The map attached as Exhibit A to the Petition shows the Boomer wire center of the Wilkes Telephone Membership Corporation ("Wilkes") to be only partially within the proposed ETC service area. However, this was corrected in Carolina West's June 16, 2004 Amendment to reflect the fact that the entire Wilkes study area, including the entirety of the Boomer wire center, is within Carolina West's proposed ETC service area.

¹³ See *Virginia Cellular*, *supra*, 19 FCC Rcd at 1582, para. 37.

¹⁴ See Petition at pp. 23-25.

September 30, 2005
Page 6 of 6

We trust that you will find this information to be useful. Should you have any questions or require any additional information, please contact undersigned counsel directly.

Respectfully submitted,

NORTH CAROLINA RSA 3 CELLULAR TELEPHONE
COMPANY D/B/A CAROLINA WEST WIRELESS



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